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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

DIETER MAUER ET.AL. )  
Serial No.: 09/187,358 ) Art Unit: 3652  
Filed: November 6, 1998 ) Examiner: Thomas J. Brahan  
For: CONVEYOR FOR ELONGATE ) Docket No. GER-5196  
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REPLY BRIEF

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**GROUP 3600**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is a Reply Brief in an appeal to the Board of Patent Appeals and Interferences from the decision of the Examiner, dated June 5, 2002, finally rejecting claims 1, 2 and 7 through 15 of this application, and is in response to the Examiner's Answer of October 3, 2003. Appellant's Appeal Brief in this appeal was filed in the U.S. Patent and Trademark Office on July 7, 2003.

In the above-noted Appeal Brief, appellants set forth in Section VI., six issues, to be considered in the appeal, in the following manner:

VI. ISSUES

**Issue 1:** Whether claims 1, 2, 7, 8, 9, 12, 13 and 15 are anticipated, under 35 U.S.C. § 102(b), by U.S. Patent No. 5,579,975 (hereinafter "the Moorman patent").

**Issue 2:** Whether claims 1, 2, 7 and 8 are anticipated, under 35 U.S.C. § 102(e), by U.S. Patent No. 5,897,045 (hereinafter "the Olvera patent").

**Issue 3:** Whether claims 1, 2 and 7 through 14 are unpatentable, under 35 U.S.C. § 103(a), over U.S. Patent No. 5,813,114 (hereinafter "the Blacket patent").

**Issue 4:** Whether claims 1, 2, 7 and 8 are unpatentable, under 35 U.S.C. § 103(a), over U.S. Patent No. 5,192,012 (hereinafter "the Schafer patent").

**Issue 5:** Whether claim 14 is unpatentable, under 35 U.S.C. § 103(a), over the Olvera patent in view of U.S. Patent No. 5,810,239 (hereinafter "the Stich patent").

**Issue 6:** Whether claim 14 is unpatentable, under 35 U.S.C. § 103(a), over the Schafer patent in view of the Stich patent.

Appellants set forth arguments in Section VIII of the above-noted brief, wherein the rejections which formed the basis for Issue 1 through Issue 6 of the above-noted Section VI were rebutted.

On page 2 of the above-noted Examiner's Answer, the Examiner states as follows:

**"(6) Issues**

The appellant's statement of the issues in the brief is correct, except that two of the rejections under 35 U.S.C. § 102 have been withdrawn."

Specifically, then, the Examiner has withdrawn the rejections which formed the basis for Issue 1 and Issue 2, as defined in Section VI of appellant's above-noted Appeal Brief. It is appellant's understanding, therefore, that Issue 1 and Issue 2 of Section VI of appellant's Appeal Brief will not be considered by the Board of Patent Appeals and Interferences in the course of the Board's review of this appeal.

In the Examiner's Answer, at the bottom of page 2 and most of page 3 thereof, the Examiner sets forth a Section identified as (11) Grounds of Rejection. Under this Section, the Examiner presents the Examiner's grounds for the rejections of the claims which are noted under Issue 3, Issue 4 and Issue 6 of appellant's Appeal Brief. In this Section, the Examiner has not referred to any rejection of claims which are identified under Issue 1 and Issue 2 of appellant's Appeal Brief, which further substantiates that the Examiner has withdrawn the rejection of claims on the basis of 35 U.S.C. § 102.

Also, in the Examiner's grounds of rejection under (11) Grounds of Rejection, the Examiner has not made any reference to the rejection under 35 U.S.C. § 103 of the claim identified in Issue 5 of Section VI of appellant's Appeal Brief. Appellants assume, therefore, that it was the Examiner's intention to also withdraw the rejection of the claim identified in Issue 5 of Section VI of appellant's Appeal Brief.

Therefore, appellant's submit that only the rejections of claims as identified in Issue 3, Issue 4 and Issue 6 of Section VI of appellant's Appeal Brief are to be considered by the Board of Patent Appeals and Interferences in this appeal.

Otherwise, appellants submit that, for the reasons set forth in appellant's Appeal Brief, appellants' claims 1, 2 and 7 through 15 are allowable, and hereby request such allowance.

Appellants submit further that this application is in condition for allowance and such allowance is hereby solicited.